



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/06/04, by Michael J. Madigan

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-126

Amends the Public Utilities Act. Makes a technical change in a Section concerning independent system operators.

LRB093 17303 AMC 42969 b

1 AN ACT concerning utilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-126 as follows:

6 (220 ILCS 5/16-126)

7 Sec. 16-126. Membership in an independent system operator.

8 (a) The General Assembly finds that the establishment of
9 one or more independent system operators or their functional
10 equivalents is required to facilitate the development of an
11 open and efficient marketplace for electric power and energy to
12 the benefit of Illinois consumers. Therefore, an ~~each~~ Illinois
13 electric utility owning or controlling transmission facilities
14 or providing transmission services in Illinois and that is a
15 member of the Mid-American Interconnected Network as of the
16 effective date of this amendatory Act of 1997 shall submit for
17 approval to the Federal Energy Regulatory Commission an
18 application for establishing or joining an independent system
19 operator that shall:

20 (1) independently manage and control transmission
21 facilities of any electric utility;

22 (2) provide for nondiscriminatory access to and use of
23 the transmission system for buyers and sellers of
24 electricity;

25 (3) direct the transmission activities of the control
26 area operators;

27 (4) coordinate, plan, and order the installation of new
28 transmission facilities;

29 (5) adopt inspection, maintenance, repair, and
30 replacement standards for the transmission facilities
31 under its control and direct maintenance, repair, and
32 replacement of all facilities under its control; and

1 (6) implement procedures and act to assure the
2 provision of adequate and reliable service.

3 These standards shall be consistent with reliability
4 criteria no less stringent than those established by the
5 Mid-American Interconnected Network and the North American
6 Electric Reliability Council or their successors.

7 (b) The requirements of this Section may be met by joining
8 or establishing a regional independent system operator that
9 meets the criteria enumerated in subsections (a), (c), and (d)
10 of this Section, as determined by the Commission. To achieve
11 the objectives set forth in subsection (a), the State of
12 Illinois, through the appropriate officers, departments, and
13 agencies, shall work cooperatively with the appropriate
14 officials and agencies of those States contiguous to this State
15 and the Federal Energy Regulatory Commission towards the
16 formation of one or more regional independent system operators.

17 (c) The independent system operator's governance structure
18 must be fair and nondiscriminatory, and the independent system
19 operator must be independent of any one market participant or
20 class of participants. The independent system operator's rules
21 of governance must prevent control, or the appearance of
22 control, of decision-making by any class of participants.

23 (d) Participants in the independent system operator shall
24 make available to the independent system operator all
25 information required by the independent system operator in
26 performance of its functions described herein. The independent
27 system operator and the electric utilities participating in the
28 independent system operator shall make all filings required by
29 the Federal Energy Regulatory Commission. The independent
30 system operator shall ensure that additional filings at the
31 Federal Energy Regulatory Commission request confirmation of
32 the relevant provisions of this amendatory Act of 1997.

33 (e) If a spot market, exchange market, or other
34 market-based mechanism providing transparent real-time market
35 prices for electric power has not been developed, the
36 independent system operator or a closely cooperating agent of

1 the independent system operator may provide an efficient
2 competitive power exchange auction for electric power and
3 energy, open on a nondiscriminatory basis to all suppliers,
4 which meets the loads of all auction customers at efficient
5 prices.

6 (f) For those electric utilities referred to in subsection
7 (a) which have not filed with the Federal Energy Regulatory
8 Commission by June 30, 1998 an application for establishment or
9 participation in an independent system operator or if such
10 application has not been approved by the Federal Energy
11 Regulatory Commission by March 31, 1999, a 5 member Oversight
12 Board shall be formed. The Oversight Board shall (1) oversee
13 the creation of an Illinois independent system operator and (2)
14 determine the composition and initial terms of service of, and
15 appoint the initial members of, the Illinois independent system
16 operator board of directors. The Oversight Board shall consist
17 of the following: (1) 3 persons appointed by the Governor; (2)
18 one person appointed by the Speaker of the House of
19 Representatives; and (3) one person appointed by the President
20 of the Senate. The Oversight Board shall take the steps that
21 are necessary to ensure the earliest possible incorporation of
22 an Illinois independent system operator under the Business
23 Corporation Act of 1983, and shall serve until the Illinois
24 independent system operator is incorporated.

25 (g) After notice and hearing, the Commission shall require
26 each electric utility referred to in subsection (a), that is
27 not participating in an independent system operator meeting the
28 requirements of subsections (a) and (c), to seek authority from
29 the Federal Energy Regulatory Commission to transfer
30 functional control of transmission facilities to the Illinois
31 independent system operator for control by the Illinois
32 independent system operator consistent with the requirements
33 of subsection (a). Upon approval by the Federal Energy
34 Regulatory Commission, electric utilities may also elect to
35 transfer ownership of transmission facilities to the Illinois
36 independent system operator. Nothing in this Act shall be

1 deemed to preclude the Illinois independent system operator
2 from (1) seeking authority, as necessary, to merge with or
3 otherwise combine its operations with those of one or more
4 other entities authorized to provide transmission services,
5 (2) purchasing or leasing transmission assets from
6 transmission-owning entities not required by this Section to
7 lease transmission facilities to the Illinois independent
8 system operator, or (3) operating as a transmission public
9 utility under the Federal Power Act.

10 (h) Any other owner of transmission facilities in Illinois
11 not required by this Section to participate in an independent
12 system operator shall be permitted, but not required, to become
13 a member of the Illinois independent system operator.

14 (i) The Illinois independent system operator created under
15 this Section, and any other independent system operator
16 authorized by the Federal Energy Regulatory Commission to
17 provide transmission services as a public utility under the
18 Federal Power Act within the State of Illinois, shall be deemed
19 to be a public utility for purposes of Section 8-503 and 8-509
20 of this Act. An independent system operator or regional
21 transmission organization that is the subject of an order
22 entered by the Commission under Section 8-503 need not possess
23 a certificate of service authority under Section 8-406 in order
24 to be authorized to take the actions set forth in Section
25 8-509.

26 (j) Electric utilities referred to in subsection (a) may
27 withdraw from the Illinois independent system operator upon
28 becoming a member of an independent system operator or
29 operators conforming with the criteria in subsections (a) and
30 (c) and whose formation and operation has been approved by the
31 Federal Energy Regulatory Commission. This subsection does not
32 relieve any electric utility of any obligations under Federal
33 law.

34 (k) Nothing in this Section shall be construed as imposing
35 any requirements or obligations that are in conflict with
36 federal law.

1 (1) A regional transmission organization created under the
2 rules of the Federal Energy Regulatory Commission shall be
3 considered to be the functional equivalent of an independent
4 system operator for purposes of this Section, and an electric
5 utility shall be deemed to meet its obligations under this
6 Section through membership in a regional transmission
7 organization that fulfills the requirements of an independent
8 system operator under this Section.

9 (Source: P.A. 92-12, eff. 7-1-01.)